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February 6, 2003

VIA ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
CY-B402
Washington, D.C. 20554

Re: *Application of SBC Communications, Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Authority to Provide In-Region, InterLATA Services In Michigan,* WC Docket No. 03-16

Dear Ms. Dortch:

Enclosed for filing in the above-referenced proceeding pursuant to the Commission's January 16, 2003 Public Notice Requesting Comments are the Comments of McLeodUSA Telecommunications Services, Inc.

Should you have any questions concerning this filing, please do not hesitate to call me.

Respectfully submitted,

Harisha J. Bastiampillai

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by SBC Communications Inc.,	)	
Michigan Bell Telephone Company, and	)	WC Docket No. 03-16
Southwestern Bell Communications Services,	)	
Inc., for Authorization Under Section 271	)	
Of the Communications Act to Provide	)	
Provide In-Region, InterLATA Service in	)	
The State of Michigan	)	

COMMENTS OF McLEODUSA TELECOMMUNICATIONS SERVICES, INC.

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Dated: February 6, 2003

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SUMMARY

Almost six years ago, this Commission rejected Ameritech's first application for Section 271 authority in Michigan primarily due to deficiencies in Ameritech's OSS. The Commission stated that before any future Section 271 request could be granted, Ameritech should demonstrate that, at a minimum, unbundled network elements can be ordered in an "efficient, accurate, and timely manner" and that its operations support systems are designed to accommodate both current demand and projected demand of competing carriers.

One would think that the passage of six years would have provided, Ameritech, now SBC, ample time to reach this goal, or at least approximate this goal. McLeodUSA's experience, however, has demonstrated that a functional and efficient OSS is still an elusive goal in Michigan. SBC's OSS fails to support the most basic of ordering functions such as designating non-published listings and supporting numeric codes in address location identifiers. As a result, orders that should be flowing through now require manual workarounds and manual processing thereby extending provisioning intervals, taxing McLeod's resources, and increasing the potential for errors in orders.

Perhaps what is most disconcerting is the protracted periods CLECs such as McLeodUSA have to endure for SBC to fix these problems. Despite the fact that many of these problems represented deviations from SBC's own OSS documentation, SBC treats them as OSS enhancements as opposed to corrections of defects, and therefore attaches low priority to them. Thus, the corrections can take more than a year to materialize and even then need a further extended period to work out the kinks. Meanwhile, CLECs such as McLeodUSA have to continue with the manual workarounds.

The problems with OSS are not limited to corrections of existing systems, but appear in regard to new releases as well. The release of LSOG 5.0 was accompanied by delays, numerous documentation changes, and an unsuitable test environment. As a result, McLeodUSA had to place on hold a vital customer conversion project. The LSOG 5.0 release has not been subject to third party testing sufficient to instill any confidence in the release. Finally, SBC's OSS has not been updated to reflect the fact that a CLEC may have more than one operating entity. One would think a corporate behemoth like SBC with so many subsidiaries including three different ones on this application would recognize the importance of having an OSS supporting multiple corporate entities. Then again, SBC's OSS does recognize the value of such a system, but only for its retail customers.

SBC's OSS is the crucial gateway for competitors to the vital unbundled network elements that CLECs need to provide telecommunications services. The Commission recognized the importance of OSS by rejecting Ameritech's first application due to flaws in SBC's OSS. These flaws still remain and undermine a CLEC's ability to compete. The Commission gave Ameritech precise direction as to actions it would need to undertake to improve its OSS. Until SBC Ameritech provides a fully functional and efficient OSS in Michigan, its application should be denied.

Another issue the Commission must address is SBC's discriminatory policy of restricting CLECs to copper or UDLC loops when a customer is served by IDLC loops. CLECs should enjoy the same choice of platforms that SBC can provide, particularly when migration to copper or UDLC loops can lead to degradation of service. If a customer is served by IDLC and chooses McLeodUSA as a local service provider the customer will be migrated by SBC to a copper or UDLC loop. This can significantly inhibit the types of equipment that can be attached to these loops such as modems or credit card validation machines and may also affect the quality of the voice service. In some cases, McLeod has to opt for resale or UNE-P over purchase of a UNE loop because of concerns over degradation of service that may be caused by the migrations. As a result CLECs have to either choose diminished profit margins or servicing its customers with inferior loops. Until SBC provides nondiscriminatory access to IDLC loops its application should be denied.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of	)	
	)	
Application by SBC Communications Inc.,	)	
Michigan Bell Telephone Company, and	)	WC Docket No. 03-16
Southwestern Bell Communications Services,	)	
Inc., for Authorization Under Section 271	)	
Of the Communications Act to Provide	)	
Provide In-Region, InterLATA Service in	)	
The State of Michigan	)	

COMMENTS OF McLEODUSA TELECOMMUNICATIONS SERVICES, INC.

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") submits these comments concerning the Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. (collectively referred to as "SBC" or "Ameritech Michigan"), for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Michigan ("Application").[1] For the reasons stated in these comments, the Commission should deny the Application.

I. SBC FAILS TO PROVIDE NONDISCRIMINATORY ACCESS TO OSS IN VIOLATION OF CHECKLIST ITEM 2 (ACCESS TO UNES)

A. Legal Standard

Checklist Item 2 requires that a BOC provide non-discriminatory access to network elements.[2] OSS and the information they contain are critical to the ability of competing carriers

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[1] *Comments Requested on the Application by SBC Communications, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Michigan*, Public Notice, WC Docket No. 03-16, DA 03-156, released Jan. 16, 2003.

[2] 47 U.S.C. § 271(c)(2)(B)(ii).

to use network elements and resale services to compete with BOCs.[3] In analyzing whether a BOC provides non-discriminatory access to its OSS for Section 271 purposes, the Commission has adopted a two-step approach. First, the Commission determines "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them."[4] The Commission has traditionally focused on the functionality and capacity of the BOC's OSS in its analysis of this step.

In the second step, the Commission determines "whether the OSS functions provided by the BOC to competing carriers are actually handling current demand and will be able to handle reasonably foreseeable demand volumes."[5] It looks at performance measures and other evidence of commercial readiness. With respect to the instant Application, both the general functionality/capability of SBC's OSS and its performance at the various stages of the OSS process demonstrate that SBC is not satisfying the requirements of the competitive checklist in regard to OSS.

B. Functionality and Capacity of SBC Michigan OSS System

As previously noted, the Commission requires a 271 applicant to demonstrate that its OSS is designed to accommodate both current demand and projected demand for competing

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[3] *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan,* CC Docket No. 97-137, FCC 97-298, ¶ 130 (Aug. 19, 1997) ("*Michigan Order*").

[4] *Michigan Order* at ¶ 136. *See In the Matter of Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to provide In-Region, InterLATA Services in Texas,* CC Docket No. 00-65, FCC 00-238 at ¶ 96 (June 30, 2000) ("*Texas Order*").

[5] *Michigan Order* at ¶ 138; *See Texas Order* at ¶ 96.

carriers' access to OSS functions.[6] There are fundamental concerns about the functionality and capacity of SBC's Michigan OSS systems. In the *Michigan PSC Report Companion Order*,[7] substantial reservations about SBC's OSS led the Michigan PSC to take the unusual step of requiring remedial action by SBC in several areas. Furthermore, there are serious questions as to the functionality and capacity of SBC's OSS as demonstrated below.

It was SBC's OSS that caused this Commission to deny its SBC's first application in Michigan. The Commission found particular fault with the readiness of Ameritech's operations support systems ("OSS") to enable competitive local exchange carriers ("CLECs") to use network elements and resale services in competition with Ameritech, emphasizing that "new entrants must have access to the functions performed by the systems, databases and personnel, commonly referred to as operations support systems, that are used by the incumbent LEC to support telecommunications services and unbundled elements."[8] It stated that nondiscriminatory access to such systems is "critically important to the development of effective, sustained competition in the local exchange market."[9]

In explaining the central importance of OSS to its analysis of the propriety of Ameritech's Application, the Commission stated that "the duty to provide nondiscriminatory access to OSS functions is embodied in other terms of the competitive checklist as well."[10] It found that in order for a BOC to be able to demonstrate that it is properly furnishing all of the

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6 *Id.* at ¶ 97.

7 *Opinion and Order*, In the Matter, on the Commission's Own Motion, to Consider SBC's, f/k/a Ameritech Michigan, Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996, Case No. U-12320 ("*Michigan PSC Report Companion Order*") (Mi. PSC Jan. 13, 2003) at 3 (The Commission is also issuing a companion order specifying certain further actions and monitoring that the Commission has determined to be necessary").

8 *Michigan Order* at ¶ 129.

9 *Michigan Order* at ¶¶ 3, 130.

items enumerated in the competitive checklist, the BOC must show that it is providing nondiscriminatory access to the systems, information and personnel that support those elements or services.[11] The Commission stated that without "equivalent access" to the BOC's OSS, many items required by the competitive checklist would not be "practically available."[12]

In rejecting the Application, the Commission found that Ameritech had failed to meet its burden of demonstrating that it provided nondiscriminatory access to all OSS functions as required by Sections 271 and 251 of the Telecommunications Act.[13] The Commission also ruled that Ameritech had failed to provide the Commission with the empirical data necessary for it to analyze whether Ameritech was furnishing nondiscriminatory access to all OSS functions.[14] It found that before any future Section 271 request could be granted:

> We would expect Ameritech to demonstrate, at a minimum, that both individual and combinations of unbundled network elements can be ordered, provisioned, and billed in an efficient, accurate and timely manner, and that its operations support systems supporting such functions are designed to accommodate both current demand and projected demand of competing carriers.[15]

Nearly six years later, SBC still fails to demonstrate that its unbundled network elements can be ordered and provisioned in an efficient, accurate and timely manner and that its OSS is designed to accommodate both current and projected demand of competing carriers.

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10 *Michigan Order* at ¶ 132.
11 *Michigan Order* at ¶ 132.
12 *Michigan Order* at ¶ 132.
13 *Michigan Order* at ¶ 158.
14 *Michigan Order* at ¶ 128.
15 *Michigan Order* at ¶ 161.

This Commission has previously focused on "flow-through" rates as an indication of parity in the ordering stage.[16] "Flow-through" refers to orders that are transmitted electronically through the gateway and accepted into the ILEC's back office ordering systems without manual intervention. The flow-through rate often "serves as a yardstick to evaluate whether an incumbent LEC's OSS is capable of handling reasonably foreseeable commercial volumes of orders." In addition, this Commission has focused on an ILEC's "overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems."[17]

Nearly six years after its OSS was found lacking, and after this Commission gave SBC a specific road map detailing corrective actions it would need to undertake, SBC still has failed to implement a functional and efficient OSS. McLeodUSA has encountered numerous situations where orders that should flow through per SBC's own documentation do not flow through. Instead, McLeodUSA is required to undertake manual workarounds to "fix" the orders. In some cases, McLeodUSA can submit these "workaround" orders electronically; in most cases, it has to fax the orders. Under either scenario, once SBC receives the orders they have to be manually processed. This lack of flow through delays provisioning intervals, consumes the time of McLeodUSA's personnel, and increases the potential for error in the processing of the order. The following are but two examples of the problems that McLeodUSA has encountered.

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[16] *In the Matter of Application By Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York,* CC Docket No. 99-295, Memorandum Opinion and Order at ¶ 160, fn. 488, ¶ 162, fn. 496, FCC 99-404 (Dec. 22, 1999) ("*New York Order*").

[17] *Id.* at ¶ 163.

One problem arises when a McLeodUSA resold Centrex customer[18] wants a non-published listing. This is not uncommon for McLeodUSA's customers. SBC's OSS will not allow McLeodUSA to designate the listing as non-published. This is an error in their system and online documentation. SBC's own Service Center processes require McLeodUSA to specify if the listing is unpublished. SBC has informed McLeodUSA that it must make a comment in the local service request ("LSR") notifying SBC that the listing is to be unpublished. McLeodUSA has to perform this manual workaround on numerous orders thereby consuming the precious time of its workforce. Once SBC receives the order, it will have to be processed manually given the manual workaround, which will add further delay to the provisioning interval.

What is particularly problematic about the situation is the delay of SBC in resolving the situation. When a problem in SBC's OSS requires a "fix," SBC will either code the problem as a defect record ("DR") or a change request ("CR").[19] A DR is opened when one of SBC's OSS is not working as designed as specified in their OSS documentation. A CR is opened when the OSS is working as designed per their online documentation. This is a vital distinction because CRs typically are not highly prioritized in regard to scheduling since they are viewed as system enhancements.[20]

The problem with the non-published directory listing designation was treated by SBC as a CR despite the fact that its OSS is supposed to allow for such a designation. As a result, a

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[18] McLeodUSA does not utilize a central resale platform in Michigan specifically, but has encountered this problem in other states in the old Ameritech region. Because SBC uses the same OSS region-wide, however, this problem accurately reflects the state of SBC's OSS in Michigan.

[19] *See* SBC Application, Affidavit of Mark J. Cottrell Regarding Operation Support Systems at ¶ 209.

[20] *See, In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, Case No. U-12320, Joint Affidavit of Walter W. Willard and Rebecca L. Webber on Behalf of AT&T Communications of Michigan, Inc. and TCG Detroit at ¶ 16 (Nov. 15, 2002) (AT&T notes that CR process remains a "cumbersome"

problem that was opened as a CR on September 20, 2002 has an estimated fix date of December 13, 2003. That means that McLeodUSA has to continue use of the manual workaround for more than 15 months after the CR was opened. Of course, that also means SBC will continue to process each and every McLeodUSA order for a non-primary business line on the Centrex resale platform on a manual basis for the same period of time. This is not the same process SBC Michigan uses to process its retail orders for non-primary lines.

Another problem involves address location identifiers ("ALI"). SBC's OSS does not support the entry of numeric ALI codes; it only supports use of alpha codes. Once again, this is not in line with SBC's OSS documentation which shows numeric codes as an approved field value. SBC's own customer service record ("CSR") contains ALI with numeric and alpha-numeric codes. McLeodUSA is forced to remove the numeric values, prior to sending out an ALI code, on every LSR. The amount of unnecessary production time wasted on this manual fix is staggering.

SBC coded this problem as a CR despite the fact that their OSS does not reflect their documentation. Since SBC is improperly classifying it as a CR, the CR, which was opened on October 1, 2002, has been given a low priority and will not be fixed until June 14, 2003. There is no guarantee that when the fix is initially implemented that the problem will be solved. In fact, McLeodUSA's experience has been that SBC's "fixes" often do not work when first implemented and take even more time to work out the kinks. Thus, June 14, 2003 would be the best case scenario for implementation of the solution.

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vehicle as "they make take as long as 6-9 months before SBC Ameritech's response or review is complete" and then may fall prey to internal SBC Ameritech priorities.).

These are but two of the problems McLeodUSA has experienced with SBC's OSS. There is no excuse for SBC's failure to implement an OSS that will provide for the seamless execution of the most basic of functions such as designating non-published listings or providing address location identifiers. These types of orders should be seamlessly flowing through SBC's OSS, but they are not. Instead, the orders require extensive manual work on the part of McLeodUSA personnel and then manual processing once SBC receives the order. As volumes of orders increase, things will only get worse. In addition, SBC has demonstrated that it takes protracted periods of time for it to remedy the most basic of OSS problems. Once again, as commercial volumes increase, things will only get worse.

The Michigan Commission noted that SBC had consistently failed to meet the benchmarks for flow-through.[21] Flow-through for UNE-P orders failed to meet the benchmark for the five months reviewed, and flow-through for UNE loops failed to meet the benchmark for four of the five months reviewed.[22] SBC missed the flow-through benchmarks for UNE loops, Resale, UNE-P, LNP, LSNP, and Lineshare in September, October and November 2002.[23] The Michigan PSC excused SBC's failure to meet the benchmarks on flow-through because it came "close" to meeting the benchmark. The Michigan PSC noted, however, that the most important consideration in regard to flow-through is that "orders designed to flow-through do indeed flow-through" and the PSC urged "SBC and CLECs to work together in the change management process to continue progress in assuring that an increasing number of the types of orders be

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[21] *See Report of the Michigan Public Service Commission,* In the Matter, on the Commission's Own Motion, to Consider SBC's, f/k/a Ameritech Michigan, Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996, Case No. U-12320 ("*Michigan PSC Report*") (Mi. PSC Jan. 13, 2003) at 64.

[22] *Michigan PSC Report* at 65.

[23] *See* SBC Application, Affidavit of Mark Cottrell Regarding Operations Support Systems at ¶ 170.

designed to flow-through because this offers the best opportunity for timely and accurate processing of CLEC orders."[24]

The problems McLeodUSA have been experiencing demonstrate the orders that should be flowing through are not flowing through because of failures of SBC to develop its OSS. SBC's OSS is failing to meets its own specifications and as a result, McLeodUSA has to expend valuable time and resources manually processing orders. In addition, SBC is not working with McLeodUSA in the change management process to rectify these problems as it attempts to treat these fixes as "enhancements" instead of correction of defects. As a result, McLeodUSA is forced to endure these defects for a protracted period of time. SBC has had an ample period of time to ensure that it is OSS is operationally ready, but clearly it still is not. Until SBC can demonstrate that it has rectified these problems and provided the Commission with a track record of performance meeting the requisite benchmarks, it should not be found to be in compliance with Checklist Item 2.

C. SBC's Change Management Process Is Inadequate

As the Commission noted in its *New York 271 Order*:

> The change management process refers to the methods and procedures that the BOC employs to communicate with competing carriers regarding the performance of and changes in the BOC's OSS system. Such changes may include operations updates to existing functions that impact competing carrier interface(s) upon a BOC's release of new interface software; technology changes that require competing carriers to meet new technical requirements upon a BOC's software release date; additional functionality changes that may be used at the competing carrier's option, on or after a BOC's release date for new interface software; and changes that may be mandated by regulatory authorities. Without a change management process in place, a BOC can impose substantial costs on competing carriers simply by making changes to its systems and interfaces without providing adequate testing opportunities and accurate and timely notice and documentation of the changes. As Allegiance suggests, change management problems can impair

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[24] *Michigan PSC Report* at 65.

> a competing carrier's ability to obtain nondiscriminatory access to UNEs, and hence a BOC's compliance with section 271(c)(2)(B)(ii).[25]

In evaluating whether a BOC's change management plan affords an efficient competitor a meaningful opportunity to compete, the Commission first assesses whether the plan is adequate. In making this determination, it assesses whether the evidence demonstrates: (1) that information relating to the change management process is clearly organized and readily accessible to competing carriers; (2) that competing carriers had substantial input in the design and continued operation of the change management process; (3) that the change management plan defines a procedure for the timely resolution of change management disputes; (4) the availability of a stable testing environment that mirrors production; and (5) the efficacy of the documentation the BOC makes available for the purpose of building an electronic gateway. After determining whether the BOC's change management plan is adequate, the Commission evaluates whether the BOC has demonstrated a pattern of compliance with this plan.[26]

In addition to the problems noted in the previous section relating to SBC's dilatory efforts at fixing defects in its OSS, there are also problems with new OSS releases. McLeodUSA would like to bring to the Commission's attention information elicited in the Illinois Commerce Commission's ("ICC") Section 271 proceeding where SBC's change management process is also being examined. Since SBC utilizes a thirteen state change management process,[27] and since SBC attempts to rely on this Commission's approval of its change management process in other states as a basis for approval in this state, information from other states using the same process is highly relevant.

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25 *New York Order*, ¶ 103.

26 *New Jersey Order*, Appendix C, ¶ 42.

27 *See* SBC Application, Affidavit of Mark Cottrell Regarding Operations Support Systems at ¶ 205.

In the Illinois proceeding, McLeodUSA witness Michelle Sprague, McLeodUSA's OSS Manager, echoing the testimony of AT&T witness Willard, presented detailed evidence showing that SBC's Change Management Processes ("CMP") regarding OSS releases are fatally flawed. While Mr. Willard detailed the problems with the LSOG 4 EDI release, Ms. Sprague's testimony demonstrated that the LSOG 5 EDI Joint Test Environment has been equally problematic.[28] The LSOG 5 EDI Joint Test environment has had so many defects that it became apparent that SBC Ameritech had not adequately developed the Joint Test Environment before declaring the Test Environment was "open" so that it could meet its change management obligation to have the Test Environment open for 67 days before the scheduled release date.

SBC's failure to provide a suitable Joint Test Environment means that CLECs do not have the required means to seamlessly migrate to new releases of SBC's OSS. Ms. Sprague testified that there are meaningful, and adverse, consequences to McLeodUSA resulting from the failure of SBC to properly manage the release of LSOG 5 EDI:

> There are several impacts, some of which are direct and some indirect, of not having the test environment actually ready for testing. First, we incur the cost of wasting the resources of our own IT development staff as they sit idle waiting for SBC/Ameritech to fix the problem *de jure*. There is the cost of being unable to use a specific platform or migrating customers to a platform because the inability to test causes us to change our business plans. For example, McLeodUSA has been planning to migrate its resold Centrex customer base to UNE-P to take advantage of better economics, but since the LSOG 5 EDI is not ready for use (by ready we are referring to operating on a commercial basis), we cannot proceed with that conversion process. That delay is costing McLeodUSA in terms of lost margins.[29]

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[28] *Investigation concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996*, Illinois Commerce Commission Docket No. 01-0662, Phase IA Initial Brief of McLeodUSA USA Telecommunications Services, Inc. and TDS Metrocom, Inc. at 11 (July 24, 2002) ("McLeodUSA Illinois Brief").

[29] McLeodUSA Illinois Brief at 12-13.

Because of the significant problems encountered by McLeodUSA in the LSOG EDI Joint Test Environment and the problems encountered by other CLECs in the LSOG 4 Joint Test Environment, McLeodUSA has a profound concern that the conversion to LSOG 5 EDI commercial production will be filled with catastrophic problems that will literally stop competition. At the very least, these problems absolutely require that SBC's OSS systems and interfaces must be fully tested by the third party tester at commercial levels before the Commission makes a finding that SBC's OSS satisfies the checklist obligation to provide nondiscriminatory access to this UNE. BearingPoint, one of the third party testers in Michigan, tested the change management process with respect to the release of LSOG 4; the problems with the change management problems identified by McLeodUSA with respect to LSOG5 were virtually ignored during the third party testing since Bearing Point had already closed out its review of SBC Ameritech's CMP process based on review of the LSOG4 release.[30] SBC itself noted that "the size and scope of the LSPOR/LSOR 5.00 release was unprecedented" and that the system changes "affected nearly all aspects of system design and development."[31] Given the breadth and importance of the release, and the problems encountered, third party testing should have been conducted on this interface prior to any determination being made on SBC's change management process.

AT&T documented numerous problems with the LSOG 5 release in the Michigan proceeding. AT&T noted that in a one-year span there were over 1033 pages of revisions to

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[30] *See* SBC Application, Affidavit of Mark J. Cottrell Regarding Operations Support Systems at ¶ 219.

[31] *See* SBC Application, Affidavit of Mark J. Cottrell Regarding Operations Support Systems at ¶¶ 231-233.

LSOG 5.00.[32] SBC made changes to the documentation in more than 175 instances. The changes were ongoing through the latter part of 2001 and 2002.[33] SBC failed to adhere to its time frame for release of LSOG 5.[34] The delay came a mere two weeks before the release date which suggested that SBC waited until the last minute to conduct adequate testing.[35] SBC has had to modify the web platform numerous times since the release and has not shared with CLECs the full extent of the changes.[36] As AT&T noted:

> CLECs must be able to rely on change management as the mechanism by which they can prepare for releases as they are being developed and eventually issued (pursuant to the agreed change management timelines). It has not served that important function with SBC Ameritech because SBC Ameritech's systems are in a constant state of flux, transition, update and instability.[37]

Once again the Michigan Commission acknowledged the problems, but still chose to approve SBC's application on the issue of change management.[38] The Michigan PSC relied upon the test conclusions of Bearing Point, one of the third party testing companies evaluating SBC's OSS. As AT&T noted, however, Bearing Point's tests "appear to capture data and experiences from only a short snapshot in time, and, thus, do not adequately represent the full experience (or futility of that experience) of operating under SBC Ameritech's change management process."[39] In particular, a detailed review of the CR process was not conducted because as of November, 2002, the Test CLEC had submitted only one CR during the test and the specifics of the CR were

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32 *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, Case No. U-12320, Joint Affidavit of Walter W. Willard and Rebecca L. Webber on Behalf of AT&T Communications of Michigan, Inc. and TCG Detroit at ¶ 38 (Nov. 15, 2002).

33 *Id.*, ¶¶ 38-41.

34 *Id.*, ¶ 42.

35 *Id.*, ¶ 45.

36 *Id.*, ¶ 47.

37 *Id.*, ¶ 48.

38 Michigan PSC Order at 76.

39 AT&T Willard and Webber Affidavit, ¶ 11.

not explained.[40] Thus, Bearing Point's test would not provide much insight into SBC's handling of CRs and DRs and McLeodUSA's real world experience demonstrates the ongoing nature of SBC's change management deficiencies. The Michigan PSC directed SBC to file a compliance and/or improvement plan to address change management issues and noted that change management proposals shall be discussed further in the collaborative sessions. This does nothing, however, to assure CLECs that SBC has the wherewithal to not only address issues in regard to this release, but also to improve its process in regard to future releases. SBC should have filed the improvement plan first and demonstrated that it could adhere to such a plan, before its change management process is found to be in compliance with checklist requirements.

D. SBC Has Failed to Create a Process to Consolidate Carrier Codes

In 1998, McLeodUSA requested that SBC develop a process that would allow it to consolidate other merged CLECs under its carrier codes.[41] Due to the lack of such a process, McLeodUSA must operate in several respects (such as submitting orders and trouble tickets) under the fiction that its merged operating entities still exist as separate CLEC entities. This is particularly problematic for McLeodUSA because it has acquired several CLECs over the past few years. Thus, a McLeodUSA order writer must know which CLEC Access Carrier Name Abbreviation (ACNA) and Service Provider IDs to use to submit an order for a particular exchange, even if the carrier associated with that information no longer exists because it has been merged into McLeodUSA Telecommunications Services, Inc.[42] This is important because SBC will not accept orders for particular wire centers without the "correct" OCN for that wire center. This has proven to be particularly problematic for McLeodUSA because SBC's OSS still

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40 AT&T Willard and Webber Affidavit, ¶ 11.

41 McLeodUSA Illinois Brief at 10.

42 McLeodUSA Illinois Brief at 10.

considers McLeodUSA to be Phone Michigan in the State of Michigan.[43] Thus, SBC requires McLeodUSA to order UNEs as "Phone Michigan", a non-existent entity, because its systems only recognize "Phone Michigan," and, therefore, only "Phone Michigan" can place orders out of the collocation arrangements in Michigan.

The impacts of this issue arise in many different contexts. In recent weeks SBC Michigan has refused to process McLeodUSA orders for collocation augments under the recently arbitrated McLeodUSA-Ameritech Michigan Interconnection Agreement. This agreement was negotiated and the arbitrated over the course of two years, and at all times Ameritech Michigan was fully aware that this agreement would cover all the former Phone Michigan operations in Michigan. The agreement became effective on July 6, 2002. The collocation in question was originally installed by "Phone Michigan", and, therefore, SBC's systems continue to identify this collocation as being the property of Phone Michigan.

Because of its system's inability to recognize the change in ownership, SBC personnel treat the collocation as being owned by "Phone Michigan," and have concluded that the "Phone Michigan" entity is not covered by the McLeodUSA interconnection agreement. Therefore, SBC personnel have taken the position that any collocation augments must be treated as if "Phone Michigan" was ordering these services out of Ameritech Michigan's collocation tariff. This treatment has resulted in SBC charging McLeodUSA for certain items per its collocation tariff, even though charges for those items were rejected by the Michigan PSC when it ruled in favor of McLeodUSA in the arbitration of the McLeodUSA interconnection agreement.

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[43] In June 2000, McLeodUSA merged with BRE Communications, Inc. d/b/a Phone Michigan. McLeodUSA was the surviving entity.

McLeodUSA also faces a problem in ordering new phone numbers because of the failings of SBC's OSS to recognize this change of ownership. NANPA requires the ordering CLEC to be certified and Phone Michigan is no longer a certified CLEC. The solution to these problems is simple: SBC systems should be changed to reflect that all information associated with the former "Phone Michigan" (ACNA, SPID, OCN) should now be associated with McLeodUSA. The solution offered by SBC, however, requires McLeodUSA to "reacquire" the collocation arrangements in its name and reorder every single service (all circuits, all loops, all transport, etc.). This is clearly an irrational process that would cause unnecessary costs for McLeodUSA and risk disconnecting each and every circuit and loop used to provide service to McLeodUSA's end user customers.

A much simpler fix would be for SBC to implement the process that McLeodUSA requested five years ago. It is unclear why it has taken so long for SBC to implement this process particularly since it has such a process in place for its large retail customers. If a large retail customer merges with another large retail customer, SBC has a process in place that permits the surviving corporate customer to consolidate its retail services with SBC into one account.[44] It is unclear why SBC has not implemented such a process for CLECs if not for patently discriminatory reasons. McLeodUSA is not the only CLEC that has been affected by this lack of a process. AT&T noted that the ability to map multiple state-level OCNs to a single Access Carrier Name Abbreviation ("ACNA") is vital to its operations because in each Ameritech state it has two interconnection agreements, one for AT&T and one for TCG.[45] It also has two major business units, Business and Consumer, and sometimes AT&T Business has to

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[44] McLeodUSA Illinois Brief at 9.
[45] AT&T Willard and Webber Affidavit, ¶ 65.

purchase products from both interconnection agreements.[46] AT&T noted that SBC's inability to support multiple OCNs has created numerous difficulties for AT&T.

This is yet another example of how a failure in change management can operate to impede competition. SBC has failed to implement necessary process improvements in a timely manner. SBC's OSS is a crucial gateway for CLECs in regard to the services they provide. SBC's failures in correcting defects in its OSS significantly impede the ability of CLECs to compete. It is not enough to acknowledge the problems and defer resolution of the problems to another date as the Michigan PSC has done. Clearly CLECs need assurance that a fully functional and efficient OSS will be in place. CLECs have been searching for this assurance in Michigan for years. This assurance still remains as elusive as it did six years ago when the Commission first denied Ameritech's application in Michigan.

II. SBC DOES NOT PROVIDE NON-DISCRIMINATORY PROVISIONING OF UNBUNDLED LOOPS IN COMPLIANCE WITH COMPETITIVE CHECKLIST ITEM NUMBER FOUR

A. Legal Standard

Section 271 requires a demonstration that the SWBT "is providing" and has "fully implemented" each item on the Competitive Checklist. In order to satisfy Item 4 of the Competitive Checklist, a BOC must show that the quality and timeliness of loops provisioned to CLECs is substantially the same for the BOC's provision of its own retail services or that the level of quality is sufficiently high so as to permit CLECs a meaningful opportunity to compete.[47] SBC's failure to provide McLeodUSA nondiscriminatory access to unbundled loops

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46 AT&T Willard and Webber Affidavit, ¶ 65.

47 *New York Order*, para. 335.

served by integrated digital loop carrier ("IDLC") has hindered and, in many cases, prevented CLECs from having the opportunity to compete with SWBT on an equal footing.

When a customer on a connected-through copper loop or a universal digital loop carrier ("UDLC") system switches to McLeodUSA as a local service provider, the customer will generally remain on the same physical loop and thus the quality of the loop would generally be the same as the quality of the loop the customer received from SBC. When a customer served by IDLC, however, switches to McLeodUSA that customer is removed from the IDLC and moved to either a connected-through copper loop, or a UDLC system.

The real-world effects of this migration are tremendous. The customer can experience a substantial degradation in service quality, for both voice and dial-up data applications such as fax machines, modems and credit card validation machines. The degradation affects not only what may be considered "broadband" services, but "narrowband" services as well. A migrated customer will experience at a minimum one digital to analog conversion, reduced modem speeds, and may experience reduced voice volume. Since all these effects will be noticeable to the customer, the CLEC will likely face customer complaints over the inferior quality of the service the customer is receiving. Since CLECs are given no information about the loop to which the customer will be migrated, there is no way for the CLEC to anticipate the problems in advance. In addition, since customers may change the way they utilize their phone lines over time, problems may materialize at a later date. For instance, a customer may add a modem or a credit card validation machine to the line at a later date and experience problems. The end result will still be the same – McLeodUSA will bear the customer's ire.

A customer will experience the palpable effects of the migration from the inception of service itself. To effect the migration, SBC will conduct a hot cut that will keep the customer out of service for a not insignificant period of time. Any problems during the conversion will only increase the out-of-service time. The customer will contrast this to the seamless transitions in service that SBC can effect via their IDLC systems.

As a way to mitigate undesirable customer impacts, McLeodUSA has attempted to minimize problems by simply not migrating lines from UNE-P or resale to its switches, or ordering new UNE loops, where it believes there is a substantial likelihood of a problem. For instance, one customer needed 29 lines and needed for those lines to support a variety of services. Rather than risk having the customer be migrated to copper or UDLC loops, McLeodUSA purchased the loops on a resale basis, despite the slim profit margins and the inability to use its own facilities.

This problem will only continue to increase as SBC deploys more IDLC in its network. Customers will continue to demand high-quality loops and SBC will become more and more an exclusive source of these loops. In addition, once the supply of alternative copper loops and UDLC is exhausted, CLECs will have to pay exorbitant "special construction" charges to serve customers served by IDLC. The fact that SBC has a history in Michigan of imposing discriminatory construction charges on CLECs when SBC claims that there are no spare copper facilities available provides little comfort in this regard.[48]

The Commission was prescient in the *Local Competition Order* in rejecting RBOC arguments that it is not feasible to unbundle IDLC-provided loops noting that a contrary holding would deny customers served by IDLC an equal choice of carriers and would encourage RBOCs

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[48] *See, In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, Case No. U-12320, Comments of McLeodUSA at 17 (June 29, 2001), *citing, BRE Communications, LLC d/b/a Phone Michigan v. Ameritech Michigan*, Case No. U-11735 (Feb. 9, 1999), *slip op.* at 30, 1999 WL 135128, *16 (1999).

to hide loops from competitors through use of IDLC.[49] Whatever purported technical obstacles there may have been to such unbundling are muted with the next generation of IDLC technology.[50] The Commission should require that SBC provide nondiscriminatory access to its IDLC-loops via either a DCS or a subinterface on the IDLC.

III. CONCLUSION

For the foregoing reasons, McLeodUSA urges the Commission to deny SBC's Application for the Provision of In-region, InterLATA Services in Michigan.

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49 *Local Competition Order*, ¶ 383.

50 *See* CC Docket Nos. 01-338, 96-98, 98-147, and 02-33, *Ex Parte* Letter from Stephen Gray, President, McLeodUSA to William Maher, Chief, Wireline Competition Bureau, Federal Communications Commission at 10 (Dec. 17, 2002).

CERTIFICATE OF SERVICE

I, Harisha Bastiampillai, hereby certify that on February 6, 2003, I caused to be served upon the following individuals the Comments of McLeodUSA Telecommunications Services, Inc. and supporting materials in WC Docket No. 03-16.

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